

# EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN

ROBERT JOHNSTON,	)	
individually and on behalf of a class of all	)	
other persons similarly situated,	)	Case No.1:14-cv-10427
	)	Judge Thomas L. Ludington
Plaintiff,	)	
	)	
vs.	)	<b>CLASS ACTION</b>
	)	
DOW EMPLOYEES' PENSION PLAN	)	
And DOW CHEMICAL COMPANY	)	
RETIREMENT BOARD,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF SHANNON M. CALLAHAN IN SUPPORT OF  
DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFF'S MOTION FOR  
CLASS CERTIFICATION**

Under penalty of perjury pursuant to 28 U.S.C. § 1746 I, Shannon M.

Callahan, attest to the following:

1. I am Litigation Counsel at the law firm of Jenner & Block LLP ("Jenner & Block"), attorneys of record for Defendants in the above-captioned matter ("Defendants"), along with Defendants' local counsel, Warner, Norcross & Judd LLP. I am a licensed member in good standing of the bar of the State of Illinois. Except as otherwise indicated, I have personal knowledge of the facts set forth in this Declaration and, if called and sworn as a witness, I would competently testify to these facts.

2. I respectfully submit this Declaration in support of Defendants' Brief In Opposition to Plaintiff's Motion for Class Certification.

3. On July 16, 2015, my colleague, Amanda S. Amert of Jenner & Block took the deposition of Plaintiff Robert Johnston. Attached as **Exhibit A** is a true and correct copy of portions of Johnston's deposition transcript, with relevant lines underlined, pursuant to this Court's Practice Guide.

4. On June 29, 2015 Defendants served their Expert Disclosure on Johnston pursuant to Federal Rule of Civil Procedure 26(a)(2). The Expert Disclosure disclosed Thomas Terry as an expert witness, and was accompanied by Mr. Terry's report. Attached as **Exhibit B** is a true and correct copy of Mr. Terry's report with supporting exhibits.

5. Attached as **Exhibit C** is a true and correct copy of the rebuttal expert report and supporting exhibits of Johnston's expert, Mr. Altman, served on Defendants on July 29, 2015, as well as Mr. Altman's supplemental disclosure revising Exhibit 1 to Mr. Altman's Rebuttal Report.

6. Ms. Amert took the deposition of Johnston's expert, actuary Ian Altman on August 4, 2015. Attached as **Exhibit D** is a true and correct copy of portions of the transcript of Mr. Altman's deposition, with relevant lines underlined, pursuant to this Court's Practice Guide.

7. Attached as **Exhibit E** is Defendants' Response to Request for Production Number 29, Dow Compensation Information and Defendants' Supplemental Response to Request for Production Number 29, Dow Compensation Information. The charts compile compensation information for Johnston and each of the proposed class members.

8. Attached as **Exhibit F** are twenty-four Termination General Releases, produced in discovery at DOW0026103-DOW0026289. The releases have been signed by Johnston and twenty-three other proposed class members.

9. Defendants have created a chart summarizing the information contained in Exhibits B-F relevant to the calculations of Johnston and proposed class members. The chart is attached as **Exhibit G**.

10. Columns D and E display who will not, and who will likely not, have the .925 factor applied to their calculations. The .925 factor is applied to participants who have a greater benefit under the Grandfathered formula than under the Current formula or who retired before they had three years of compensation at Dow after their return from DDE.

11. For those participants who have less than three years of compensation before they retire, examining Johnston's Exhibit A (Dkt. #26-1) and comparing the date the participant returned to Dow with their termination date will show whether they will have .925 applied.

12. For the remaining participants, examining Mr. Terry's report (Ex. B) and the accompanying Exhibits 12 and 14 to the report, shows whether the Grandfathered or Current formula is higher for each of the participants.

13. Participants who have commenced benefits and who have significantly larger monthly benefits under the Current formula than under the Grandfathered formula (with a difference of more than \$100 per month) have been identified in Column D as not being affected by the .925 factor.

14. Participants who have not yet commenced benefits, but who have significantly larger monthly benefits under the Current formula than under the Grandfathered formula (with a difference of more than \$100 per month) have been identified in Column E as not likely to be affected by the .925 factor.

15. Attached as **Exhibit H** are calculations from Dow's actuary, Towers Watson, showing that Participant 55 is not entitled to benefits under the Plan. Specifically, after being rehired by Dow on July 1, 2005, the participant only worked eight days before terminating, failing to meet the 1,000 hours required for benefits under the Plan. *See* Ex. H at DOW0019169.

16. Attached as **Exhibit I** are true and correct copies of the unpublished decisions cited in the Opposing Brief to Plaintiff's Motion for Class Certification.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 10, 2015 in Chicago, Illinois.

By: /Shannon M. Callahan  
Shannon M. Callahan

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing **Declaration In Support of Defendant's Brief In Opposition To Plaintiff's Class Certification** and **Exhibits** thereto was served via the Court's ECF system upon counsel of record this 10th day of August 2015.

Dated: August 10, 2015

By: /s Amanda S. Amert

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